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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8140 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KALIDAS SHANABHAI PANCHAL

Versus

COLLECTOR OF STAMPS

Appearance:

1. Special Civil Application No. 8140 of 2004

MR SURESH M TRIVEDI for Petitioner No. 1

Mr. MR Mengdey, AGP for Respondent No. 1-2,4

MR VA MANSURI for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 22/12/2004

ORAL JUDGEMENT

In this petition under Article 227 of the Constitution of India the petitioner has challenged the legality and validity of the order passed by the Chief Revenue Controlling Authority, State of Gujarat, Gandhinagar, dated 27th February 2004 in dismissing the

appeal and confirming the order passed by the respondent No.1 dated 30th March 1999 by which the respondent No.1 in exercise of powers under Section 32-A of the Bombay Stamp Act, 1958 {"the Act" for short} has passed the order directing the petitioner to pay an amount of Rs. 80,270 by way of deficit stamp duty and Rs. 250 by way of penalty. The petitioner has purchased the property in question by registered sale deed dated 1.5.1996 and the same was presented before the Sub-Registrar, Kapadwanj. It appears that the Sub-Registrar, Kapadwanj was of the opinion that the property is not properly valued for the purpose of paying stamp duty and therefore he referred the document to the respondent No.1 for exercise of power under Section 32-A of the Act. The respondent No.1 issued the notice under Rule 4 of the Bombay Stamp[Determination of Market Value of Property] Rules, 1984 for the first time on 2.2.1999 fixing the provisional market value of the property at Rs. 6,40,492 and directed the petitioner to appear before him on 9th February 1999 along with necessary documentary evidence. It appears that the petitioner did not remain present before the respondent No.1. Though it is the case of the petitioner in the petition that the petitioner did remain present but there was no response from the respondent No.1 the petitioner was directed to pay deficit stamp duty. Thereafter the respondent No.1 Deputy Collector, Stamp Duty Valuation, Nadiad, passed the order dated 30th March 1999 directing the petitioner to pay the amount of Rs. 80,270 by way of deficit stamp duty and Rs. 250 by way of penalty determining the market value of the property in question at Rs. 6,40,492. Being aggrieved and dissatisfied with the same, the petitioner preferred appeal before the respondent No.2 which also came to be dismissed. Hence the petitioner has preferred the present petition under Article 227 of the Constitution of India.

4. Shri Mengdey, learned AGP has fairly conceded that in the impugned order the appellate authority, resondent No.2, State of Gujarat, has not given any finding and/or given any particulars on the basis of which the impugned order has been passed asking the petitioner to pay the amount of Rs. 80,270 by way of deficit stamp duty and Rs. 250 towards penalty.

5. In that view of the matter, only on the ground that the impugned order dated 27.2.2004 is a non-speaking order and no particulars are given, the same is required to be quashed and set aside and the same is hereby quashed and set aside. The petition is allowed accordingly. Rule is made absolute to the aforesaid

extent with no order as to costs. This Court has not expressed anything on the merits of the case and only on the ground that the impugned order is a non-speaking order the same is quashed and set aside. The matter is remanded to the respondent No.2 for passing an order afresh in accordance with law and on merits after giving opportunity to the petitioner. The petitioner is directed to cooperate and file reply if any. It will be open for the petitioner to take all the contentions which are available to him.

[M.R. Shah, J.]

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